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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/444,889	11/22/1999	MICHAEL G. MIKURAK	ANDIP367	9216

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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/444,889

Applicant(s)

MIKURAK, MICHAEL G.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14. 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/19/03 has been entered.
2. Claims 17, 18, 21-23, 26-28, and 31 have been amended in the communications received on 12/19/03. Claims 17-31 are pending in the current application.

Response to Amendment

3. Applicant's amendments to claims 17, 18, 21, 22, 23, 26, 27, 28, and 31 address some aspects of the 35 USC § 112, second paragraph, rejections set forth in the previous office action, but are not sufficient to overcome the rejections. New 35 USC § 112, second paragraph, rejections have been set forth below that maintain portions of the previous rejections as well as incorporate the newly amended recitations.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 17 does not distinctly point out and claim the subject matter that the applicant regards as his invention because the terms of the claim and the elements do not interrelate in a manner that clearly depicts what the applicant regards as his invention. The preamble of the claim states that disclosed is “a method for a framework manager to provide maintenance and service [...] between a first framework user and a second framework user such as service providers, vendors, resellers, manufacturers and the like”. The framework manager is said to cause the elements of the claim. Element (a) recites that a notice is received from a manufacturer (first framework user) that uses the network. Element (b) recites that a request is received from at least one service provider (second framework user) that uses the network. Elements (c) and (d) relate to scheduling and transmissions that occur with regards to the service provider and the manufacturer. Element (e) states that business entity I monitors operation of the framework selected from server processes, disk space, etc. Element (f) discusses updating “items” selected from the group consisting of tax rates, pricing, merchandizing content, and currency exchange rates. However, it is unclear, based on the limitations of the claim, how this element relates to any of the preceding elements. Element (g) discusses synchronizing external data and internal data of the system. Again, it is unclear, based on the limitations of the claim, how this element relates to the preceding elements because it does not appear to any relation to the steps that precedes it. Element (h) discusses managing contact information for user feedback, though it is

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unclear based on the claim if this user is one of the framework users or a new user introduced to the claim and it is further unclear, based on the other elements of the claim, how this claim relates to the other method steps. Finally, element (i) discusses altering the aforementioned items based on profiles of the users. Again, is unclear as to who these users are and how this element relates to elements (a)-(d) and (g). Examiner points out that elements (e)-(i) do not appear to require the first and second framework users at all.

Therefore, since elements (e)-(i) do not appear to relate as steps to the method of (a)-(d), claims 17-31 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

7. Claims 22 and 27 contain the same deficiencies as claim 17 and are therefore also rejected under 35 USC § 112, second paragraph. Claims 18-21, 23-26, and 28-31 are dependant on claims 17, 22, and 27 and therefore contain the same deficiencies.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekizawa (U.S. 6,430,711) and Haluska (U.S. 5,638,519).

9. As per claim 17, Sekizawa teaches a method for a framework manager to provide maintenance and service for a network-based supply-chain framework between a first framework

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user and a second framework user such as service providers, vendors, resellers, manufacturers and the like, comprising:

causing the framework manager using a network to:

- (a) receive from a first framework user at least one notice for recommended maintenance and service, wherein the first framework user is a manufacturer that uses the network (See at least column 9, lines 30-40, column 19, lines 1-15, and column 26, lines 10-20, wherein the framework user is a manufacturer. See at least column 2, lines 50-67, column 3, lines 1-25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65, wherein the manufacturer would recommend maintenance and service using the network);
- (b) receive from a second framework user at least one request for maintenance and service, wherein the second framework user is a service provider that uses the network (See at least figure 28 and column 2, lines 50-67, column 3, lines 1-28, column 4, lines 50-65, column 5, lines 5-10 and 40-50, and column 6, lines 1-6 and 55-65, column 7, lines 25-50, and column 8, lines 1-17, wherein the second framework user requests maintenance and service);
- (c) schedule maintenance and service using the at least one notice and the at least one request (See at least column 2, lines 50-67, column 3, lines 1-25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65, column 7, lines 59-67, and column 8, lines 1-36, wherein maintenance and service is scheduled using the request and notice);
- (d) transmit the schedule to at least the one manufacturer and the one service provider (See at least figure 28 and column 2, lines 50-67, column 3, lines 1-28, column 4, lines 50-65, column 5, lines 40-60, and column 6, lines 55-65, column 7, lines 59-67, and column 8, lines 1-

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36, wherein the scheduling is made known to the manufacturer and the second framework user via the status views of the network or direct communication);

(e) monitor at least one operation of the framework selected from the group consisting of server processes, disk space, memory availability, CPU utilization, access time to server, and a number of connections in a network-based supply chain for efficient system operation and problem prevention (See at least figure 20 and column 2, lines 50-67, column 3, lines 1-25 and 45-55, column 4, lines 40-65, column 5, lines 40-50, and column 6, lines 55-65, wherein at least one operation of the framework is monitored, including memory availability);

(f) update internal data items stored in the local framework at predetermined intervals (See at least column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the internal data items of the local framework are updated);

(g) synchronize external data stored remotely from the local framework with the internal data stored locally in the network-based supply chain in order to make all the data accessible to the rest of the network-based supply chain system (See at least column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the external, global, data and the local data is synchronized); and

(h) manage contact information received from users of the network-based supply chain to allow responses to user feedback (See at least figures 19 and 28, and column 6, lines 55-65, column 19, lines 35-45, column 20, lines 40-67, and column 22, lines 40-55, wherein contact information is managed).

However, Sekizawa does not expressly disclose and Haluska discloses:

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(f) update internal data items stored in the framework selected from the group consisting of merchandising content, currency exchange rates, tax rates, and pricing information (See at least figures 4-6, column 3, lines 25-40 and 45-65, column 5, lines 1-25, column 7, lines 35-60, and column 11, lines 35-65, wherein pricing information is updated);

(g) synchronize external data stored separately with internal data in order to make the external data accessible to the rest of the system (See at least figures 4-6, column 3, lines 25-40 and 45-65, column 5, lines 1-25, and column 11, lines 35-65, wherein the information in the system is synchronized);

(i) alter the items based on profiles of the users of the system (See at least figures 4-6, column 3, lines 25-40 and 45-65, column 5, lines 1-25, and column 11, lines 35-65, wherein the pricing is adjusted based on the person for which the pricing is being determined).

Both Haluska and Sekizawa disclose manufacturers providing services and supplies to users of the network. It is well known that pricing for a supply/service varies depending on when the supply/service is requested (i.e. prices change with time). It would have been obvious to one of ordinary skill in the art at the time of the invention to synchronize the data of the internal system with data of an external system in order to increase the accuracy of the network in providing services and supplies to users by maintaining universal and updated information accessible by all users of the network. See at least column 2, lines 50-67, of Haluska and column 2, lines 45-67, of Sekizawa.

10. As per claim 18, Sekizawa discloses a method further comprising the framework manager using the network to perform load balancing services that initiate and stop processes as

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utilization levels vary in the network-based supply chain (See at least column 6, lines 10-35, which discloses load balancing).

11. As per claim 19, Sekizawa teaches a method wherein the step of managing the contact information includes tracking responses to the users of the network-based supply chain (See at least figures 19 and 28, and column 2, lines 50-67, column 3, lines 1-25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65, column 7, lines 59-67, and column 8, lines 1-36, column 19, lines 35-45, column 20, lines 40-67, and column 22, lines 40-55, wherein the maintenance and service done in response to users is tracked).

12. As per claim 20, Sekizawa does not expressly disclose a method wherein one of the items altered based on the profiles of the users includes price, and the price is altered to reflect a discount assigned to the user.

Haluska discloses one of the items altered based on the profiles of the users includes price and the price is altered to reflect a discount assigned to the user (See at least figures 4-6, column 3, lines 25-40 and 45-65, column 5, lines 1-25 and 40-67, column 7, lines 35-60, and column 11, lines 35-65, wherein the pricing is adjusted based on the person for which the pricing is being determined and whether items ordered were damaged, for example).

Both Haluska and Sekizawa disclose manufacturers providing services and supplies to users of the network. It is well known that pricing for a supply/service varies depending on when the supply/service is requested (i.e. promotional periods, etc.) and based on the relationship of the user and the manufacturer. It would have been obvious to one of ordinary skill in the art at the time of the invention to alter the price of an item associated with the profile of the user acquiring the item in order to increase the flexibility of the tool by providing the manufacturer

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the ability to customize each situation to fit the needs of the specific user with the associated profile. See at least column 2, lines 50-67, of Haluska and column 2, lines 45-67, of Sekizawa.

13. As per claim 21, Sekizawa discloses a method further comprising the framework manager using the network prior to the synchronization of the external data to perform a search for the internal data in the network-based supply chain (See at least column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the status data of the local machines are searched prior to the synchronization).

14. As per claims 22-26, claims 22-26 are system versions of claims 17-21, respectively. Since the specification provides nothing more than a system that is a network implemented method, claims 22-26 are rejected on the same grounds as the method of claims 17-21, respectively.

15. As per claims 27-31, claims 27-31 are article of manufacture versions of claims 17-21, respectively. Since the specification provides nothing more than projected general computer program code embodied on a general purpose computer readable medium, claims 27-31 are rejected on the same grounds as the method of claims 17-21, respectively.

Response to Arguments

16. Applicant's arguments with respect to claims 17-31 have been considered but are moot in view of the new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Denoyers et al. (U.S. 5,968,189) teaches a system with hardware elements and generating an error message when a problem is detected.

Dewitt et al. (U.S. 5,572,672) discloses a viewport into a processing system that displays system resources such as memory and is used to identify and fine-tune the resources.

Henderson et al. (U.S. 6,259,679) teaches a network management system.

Barritz (U.S. 5,499,340) discloses monitoring and scheduling events in a computer network.

Peterson et al. (U.S. 6,324,522) teaches pricing in an electronic information network.

“Correlation of Failures Notifications” (IBM Technical Disclosure Bulletin) discloses a network with connections that share resources and and detect faults.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 15, 2004


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SUPERVISORY PATENT EXAMINER
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